IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL UNDER ARBITRATION ACT NO.10 OF 2002

Union of India,
represented by
Commander Works
Engineer(P),
Military Engineering
Services,Panaji-Goa. ... Appellant.

versus

M/s, Balraj Sud,
a partnership carrying
on business at Chicalim,
Goa. ... Respondent.

Mr. V. P. Thali, Senior Central Government Standing Counsel for the Appellant.

Mr. C. Mascarenhas, Advocate for the Respondent.

CORAM: P. V. HARDAS, J.

DATED 23RD JANUARY,2003.

ORAL JUDGMENT

By consent of the learned Counsel appearing on behalf of the Appellant and the Respondent, this Appeal Under the Arbitration Act, 1940, is taken up for final disposal at the stage of Admission.

2. This Appeal arises against the Order of the Civil Judge, Senior Division at Vasco-da-Gama, dated 28th September, 2002, in Civil Miscellaneous Application No.35/1992/A, whereby the learned Civil Judge, Senior

Division at Vasco-da-Gama, by his aforesaid Order, rejected the objections filed on behalf of the Appellant and made the Award, filed by the Arbitrator, the rule of the Court.

3. The principal ground that is urged by the learned Counsel appearing on behalf of the Appellant is that the learned Civil Judge, Senior Division at Vasco-da-Gama has not considered the various objections which have been taken by the Appellant in the objections filed under Section 30 of the Arbitration Act, 1940. The copy of the objections has been filed in the present proceedings at Exh."E". A perusal of the objections shows that as many as 26 grounds have been raised by the present Appellant in the said objections. The present Respondent has also filed reply to the various objections. A perusal of the Order of the learned Civil Judge, Senior Division at Vasco-da-Gama thus shows that there has been a total non consideration of the various objections taken by the present Appellant. In para 4 of the Order, the learned Trial Court only states that "there is no evidence to come to the finding that the Arbitrator has misconducted himself while conducting the proceedings. Similarly, Arbitrator has not made this Award by contravening any Order of this Court. The Award also does not show any error of law on the face of the

Award. The Respondent has failed to prove that the Award has been improperly procured".

4. A perusal of the Order of the learned Trial Court shows that the learned Trial Court has not dealt with the grounds which have been taken by the Appellant in the objections which have been filed to the Award. A vague statement is made by the learned Trial Court that there is no evidence that the Arbitrator has misconducted himself etc. When a party files objections to the Award, it is expected that the learned Trial Court should deal with the objections on merit and should independently come to a finding regarding the veracity of the objections. The Order does not indicate that the learned Trial Court has considered the various grounds raised by the Appellant. The Order impugned is, therefore, unsustainable.

5. In view of this, the Appeal is allowed. The matter is remitted back to the learned Trial Court for decision of the objections on merits. The impugned Order in the Appeal stands quashed and set aside. The Appeal thus succeeds on the above terms with no order as to costs.

P. V. HARDAS, J.